



Bureau of TennCare

Policy Manual

Policy No: HIP 06-017	
Subject: Complaints for Improper Use or Disclosure of PHI, or other HIPAA violations	
Approval: <i>Sam J. Gordon 6/28/06</i>	Date: <i>9/1/06</i>

PURPOSE OF POLICY

This policy describes how the Bureau of TennCare (the Bureau) will address complaints as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

POLICY

The Bureau of TennCare (the Bureau) will timely respond to all complaints about unauthorized or inappropriate receipt, use, or disclosure of protected health information (PHI) maintained by the Bureau. The Bureau will provide enrollees with all the privacy rights granted by HIPAA and by federal and state laws and regulations.

PROCEDURES

1. The TennCare Privacy Officer in the Bureau Office of General Counsel is responsible for receiving and processing complaints and other reports about unauthorized or inappropriate use or disclosure of enrollee PHI by the Bureau. All complaints should be submitted to:

TennCare Privacy Officer
Bureau of TennCare
P.O. Box 20007
Nashville TN 37202
(615) 507-6830 or toll-free 1-866-797-9469
fax (615) 248-2928

The TennCare Privacy Officer may be contacted by email at Privacy.TennCare@state.tn.us

However, the enrollee should always be informed that confidentiality of email transmissions is not assured unless encrypted. Unencrypted emails sent by most email services (e.g. hotmail, yahoo, earthlink, etc.) are subject to interception by third parties, and are transmitted at the sender's risk.

2. The enrollee or his/her personal representative may make the complaint verbally by calling the Family Assistance Center (currently 1-866-311-4287) or the TennCare Privacy Officer at the above listed numbers.
3. The Privacy Office will evaluate all reports. However, the Bureau may also ask the enrollee or other individual to make the complaint in writing, either on paper or electronically, if the enrollee is capable of such writing.
4. A paper to use in filing the complaint is available by calling the Family Assistance Center at 1-866-311-4287, or the TennCare Privacy Officer, or the Bureau website at www.Tennessee.gov/TennCare by clicking on "Members."
5. The written complaint must identify the Bureau action, or if possible, its workforce member(s) or Business Associate which is the subject of the complaint, and must describe the act or omission which is believed to violate HIPAA or Bureau privacy policies.
6. The TennCare Privacy Officer shall evaluate all complaints. Except for good cause, the complaint should be filed within 180 days of the time the complainant knew or should have known that the alleged violation occurred.
7. The TennCare Privacy Officer will send written acknowledgement of the receipt of the complaint within two business days or within a reasonable time.
8. The TennCare Privacy Office in the Bureau Office of General Counsel will maintain a log of all disclosures required to be recorded by HIPAA. (See Draft Policy HIP 06-008, "Accounting for Disclosures of Enrollee PHI"). The log and any documents related to this policy shall be maintained for the period required by the State of Tennessee's record retention policy, but for a period of not less than six (6) years from the date of the applicable request or report. All documents and communications shall be treated confidentially as legally privileged, as well as subject to the provisions of HIPAA.
9. In the event of a report of unauthorized disclosure by a Bureau employee or other member of its workforce, the TennCare Privacy Officer may refer the allegation to

the Bureau internal audit section or other department as appropriate, being careful to maintain the confidentiality in the investigation.

10. Written response to the complainant shall be sent after a reasonable time to permit full review, but within thirty (30) days if at all possible. The TennCare Privacy Officer will inform the complainant in writing of the reasons for any delay, indicating the time for further response.
11. In the event the complaint involves a Business Associate, the TennCare Privacy Officer will acknowledge the complaint as above and shall investigate the request promptly. (See HIP 06-006 Business Associates and HIP 06-023 Security Incident).
12. The Bureau shall not permit any intimidating or retaliatory act against the enrollee or other person for:
 - a) complaining to the Bureau;
 - b) complaining to the Secretary of the U. S. Department of Health and Human Services or her/his designate; or,
 - c) opposing any act or practice as unlawful if such opposition is in good faith, reasonable in manner, and does not disclose PHI in violation of HIPAA.
13. The Bureau will never require an enrollee to waive rights to file a complaint with the Bureau, or with the Secretary of the U.S. Dept. of Health and Human Services under 45 CFR § 160.306, as a condition of eligibility for benefits, enrollment in a health plan, treatment, or payment.
14. The TennCare Privacy Officer shall receive complaints regarding any allegation from an enrollee, a provider, or a Business Associate that the Bureau, a Business Associate, or a provider is not transmitting transactions appropriately. In this context, "appropriately" means consistent with standards established by HIPAA for the transmission of health care information. Such standard code set transmissions may include health care claims and encounter information, coordination of benefits, eligibility, and other prescribed transactions.
15. The requirements and timelines for responding to standard transactions code set complaints are the same as described for privacy complaints.
16. The TennCare Privacy Officer shall investigate such standard transactions code set complaints in conjunction with the Bureau CIO, EDI Manager, and others, and will respond on behalf of the Bureau. The Bureau will attempt to respond to the complainant as soon as reasonable, and within thirty (30) days. If the response will be delayed beyond thirty (30) days, the TennCare Privacy Officer will notify the

complainant in writing of the reasons for the delay and the additional time necessary for full response.

DEFINITIONS

Business Associate: means a person or organization, other than the Bureau's workforce, that assists the Bureau with health care arrangements involving enrollee personal health information (PHI) for claims processing or administration, or for any other function or activity regulated by HIPAA.

Code Set: means any set of codes (number series or other identifying sequences) used to encode data elements, including tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes. A code set includes the codes and the description of the codes.

Encryption: means process of converting data by scrambling into a form that cannot easily be read without knowledge of the conversion mechanism (often called a key). This increases the security of an electronic transmission.

Enrollee: means those currently enrolled in all categories of TennCare Medicaid and TennCare Standard, including an individual eligible for and enrolled in the TennCare Program or in any Tennessee federal Medicaid waiver program pursuant to Sections 1115 or 1915 of the Social Security Act; and, for purposes of the Bureau Privacy policies, the term may also be used to reference one who was previously an enrollee during a period for which there is a privacy request or compliance inquiry.

HIPAA: means Health Insurance Portability and Accountability Act of 1996 and for which administrative simplification, privacy, and security regulations are codified at 45 Code of Federal Regulations, Parts 160-164.

Payment: means activities undertaken to obtain premiums, determine eligibility and benefits or provide reimbursement for the provision of health care.

Personal representative: means an individual or entity legally authorized to act on behalf of the individual enrollee.

Protected Health Information (PHI): means medical or health information, including non-medical facts such as address or date of birth, which identify an individual.

Standard Transaction Code Set: means a code set which:

- a. has been developed and maintained by an American Nation Standards Institute (ANSI) accredited code set maintaining organization, and

- b. has been designated by the Secretary of the US DHHS to be the standard for transmitting a particular kind of information between parties to carry out health care activities.

An example would be HCPCS (Health Common Procedure Coding System) used for medical professional services by doctors and labs.

Transaction: means the transmission of information between two parties to carry out financial or administrative activities related to health care.

Treatment: means the provision, coordination, or management of health care (by providers rather than payers).

RELATED FORMS

Complaint Form

OFFICES OF PRIMARY RESPONSIBILITY

TennCare Privacy Office, Office of General Counsel

REFERENCES

45 CFR § 160.103
45 CFR § 160.306
45 CFR § 162.103
45 CFR § 164.501
45 CFR § 164.528
45 CFR § 164.530
42 USCA § 1320d-5